

Los Padres Issue Summary – Biological Resources

Objector:

Los Padres Forest Watch (LPFW), Center for Biological Diversity, The Wilderness Society, Western Watersheds Project, California Native Plant Society, California Chaparral Institute, California Wilderness Coalition, Keep Sespe Wild, et. al., Jeff Kuyper and Ileene Anderson

Summary:

The objector asserts the following:

- The Forest Service failed to adequately evaluate adverse impacts from allowable activities under Back Country Non-Motorized (BCNM) land use zoning (LUZ) on California Condor; makes inaccurate and unsupported statements about condor recovery actions and monitoring data; and failed to incorporate comments made by the U.S. Fish and Wildlife Service (USFWS) during the comment period.
- The Forest Service failed to adequately evaluate impacts to special-status species because the analyses in the Final Supplemental Environmental Impact Statement (FSEIS) and Biological Assessments (BAs) were restricted to species that are known to occur within the IRAs and did not include species that may occur or have suitable habitat in the IRAs.
- The Forest Service failed to adequately evaluate impacts to federally-designated critical habitat because the analysis in the FSEIS evaluated impacts to critical habitat inside IRA boundaries but did not evaluate impacts to critical habitat adjacent to or downstream from an IRA. Along these lines, the Draft ROD failed to state whether Alternative 2a would result in impacts that are less-than-significant and explain why the Forest Service did not select Alternative 3.

Review Team Analysis:

California condor

Review of the project record indicates that the analysis supporting the FSEIS and BAs was adequate to evaluate the impacts to special-status species (including the California condor) and critical habitat, and that these species would experience beneficial impacts from LUZs shifting from less to more restrictive types of uses (BCMUR to BCNM). Species that were not the focus of the evaluation (because they were not known to occur in the IRAs) would also be subject to these beneficial impacts and would be evaluated in detail at the project level.

The FSEIS clearly articulates that Land Management Plans (LMPs), including the Amendment, are programmatic documents that do not authorize ground disturbing activities. Therefore, the decisions do not have an immediate direct effect on wildlife or plants; direct effects are not realized until LMPs are implemented through project actions. Future, project-specific environmental analysis under NEPA and the ESA (if appropriate) will disclose the effects of projects that implement the LMP. Furthermore, all project-specific activities must adhere to the LMP standards that protect TECPS species and habitat.

With reference to the specific assertion by the objector that the Forest Service failed to evaluate impacts of the potential activities or uses on the California condor, the FSEIS and Biological Assessment (BA) discuss the potential types of effects that may occur under the alternatives and analyze how the proposed change in LUZs may influence future trends in activities. The Draft ROD clearly states that the combination of Roadless Area Conservation Rule (RACR) and Land Management Plan (LMP) zoning, in addition to project-level NEPA and ESA compliance would restrict future development (especially from projects considered permissible “by exception” in IRAs) which should result in a benefit to condors.

The Forest Service acknowledged in the FSEIS and supporting BAs that the analysis of potential impacts for this planning level evaluation was limited to those species known to occur in the evaluated IRAs. The Forest Service acknowledged that additional species may be present in the IRAs that were not identified in the databases used for the analyses. The FSEIS and supporting BAs disclosed the databases that were used, including additional databases recommended by the objector during the comment period. At the time that projects are developed, additional sources of information and field surveys may be used to supplement data for species occurrences and suitable habitat.

The objector asserts that the Forest Service failed to evaluate potential impacts to federally designated critical habitat outside of the IRAs that would be subject to LUZ changes. The Plan Amendment does not change land use zoning for federally designated critical habitat outside of the evaluated IRAs. Furthermore, under alternative 2a, all designated critical habitat on the Los Padres National Forest that overlaps the evaluated IRAs would change to land use zones that are more restrictive than current designations (FSEIS, pp. 154-155). Therefore, effects are expected to be largely beneficial.

This potential for a beneficial effect for federally designated critical habitat is also true for special-status species, including the California condor and is described in multiple locations in the FSEIS and supporting BAs. Under alternative 2a, all affected acres in the IRAs on the Los Padres National Forest (not just acres of critical habitat) would change to LUZs that are more restrictive than those under current conditions. Therefore, effects are expected to be largely beneficial and if additional species were to occur in the IRAs that weren’t formally evaluated in the FSEIS, the Forest Service states that these species would also be “subject to the same beneficial effects”.

Finally, it is important to note that the USFWS and NMFS issued Biological Opinions (BOs) and Incidental Take Statements for the revised LMPs on September 30, 2013 and August 2, 2013, respectively. Both BOs concluded that the proposed action is not likely to jeopardize the continued existence of a federally protected species or result in destruction or adverse modification to designated critical habitat for any species. The USFWS and NMFS issued concurrence letters for the Plan Amendment and concurred with the Forest Service that the proposed new land use zoning is not likely to adversely affect federally protected species (including the California condor) or federally designated critical habitats (USFWS November 14, 2013; NMFS December 2, 2013).

The objector asserts that the following statement is not accurate and should be modified or deleted: “Current monitoring data does not indicate that the presence of roaded areas is precluding or reducing the use of these areas by this wildlife. The recovery plan for the California condor does not recommend the designation of additional wilderness as a means of promoting the recovery of the species.” In addition, the BOs and concurrence letters from the USFWS do not require the creation of recommended wilderness. The statement regarding additional wilderness designation to promote species recovery is accurate. The statement regarding monitoring data suggestion of condor use of roaded and unroaded areas has been clarified by Forest Service Threatened and Endangered Species Program Coordinator Patricia Krueger and is also accurate.

The objector asserts that the Forest Service failed to incorporate into the FSEIS information from a comment letter from the USFWS Hopper Mountain National Wildlife Refuge Complex California Condor Recovery Program dated May 15, 2013 regarding wilderness protection, risks to condors from potential activities, and recommendation for Alternative 3, thereby violating NEPA, NFMA, and ESA. As discussed above and described in the comment letter from the USFWS condor program, creation of additional wilderness is not a specific recommended action described in the current Recovery Plan (1996) to promote recovery of the species. Regardless, the Forest Service acknowledges that the California condor would benefit under Alternative 3 due to the potential to preclude potential activities that would be considered allowed by exception (FSEIS Chapter 4, pg. 162).

Steelhead

The objector asserts that the Draft ROD does not use the term “less-than-significant” to indicate the level of expected effects to the Southern Steelhead and does not explain why Alternative 3 was not selected. Effects would be considered less-than-significant because as described in the Draft ROD, the effects would be largely beneficial, the proposed action is not likely to adversely affect the species or designated critical habitat, and the proposed action would not conflict with actions outlined in the Southern Steelhead Recovery Plan. The Draft ROD describes the rationale behind the decision not to select Alternative 3: “My review of the updated IRA evaluations and the effects analysis did not lead me to conclude that the RW zoning proposed in Alternative 3 was needed to maintain the undeveloped character of the IRAs. The combination of the RACR requirements and the BCNM zoning will retain much of the undeveloped character and maintain habitat characteristics for plants and animals for these areas.”

REMEDY(S) PROPOSED BY OBJECTORS

- Revise the FSEIS to incorporate the information outlined in comment letters from the objector and USFWS regarding California condors.
- The Forest Service may adopt a Recommended Wilderness designation for certain IRAs in the final ROD to ensure the fullest protections for California condors and all special-status species, with particular emphasis on those IRAs identified by the NOAA Fisheries for protection of steelhead critical habitat.

- Revise the FSEIS to incorporate information and data on special-status species that may occur in IRAs based on surveys and/or the presence of suitable habitat.
- Revise the FSEIS to evaluate all direct and indirect impacts to critical habitat, both inside and adjacent to IRAs.

INSTRUCTIONS BEING CONSIDERED

- In the last line of page 6, paragraph 1 of the Draft ROD, replace “1974” with “1996” because the most current version of the Condor Recovery Plan was published in 1996.
- A statement is needed in the ROD to clearly explain that the evaluation of potential impacts focused on species with known occurrences in the IRAs because of the programmatic nature of the amendment, and that an evaluation of all species with potential to occur in the IRAs would be conducted at the project-level. The following clarification is recommended for inclusion in the final ROD: “The Plan Amendment considered all TECPS and MIS species but focused the evaluation of potential impacts on those species with known occurrences in the 37 IRAs. The Plan Amendment does not authorize ground disturbing (project) activities and an evaluation of the impacts to all potential habitat and species would be conducted during project development and based on current data for species occurrences and protection status.”